

REMARKS

Claims 4, 6, 8, and 13-20 are withdrawn from consideration. The specification is objected to for informalities. Claims 3 and 12 stand rejected under 35 U.S.C. § 112, second paragraph for indefinitely claiming the subject matter that Applicants regards as the invention. Claims 1-3, 7, and 9-11 stand rejected under 35 U.S.C. § 102(b) as being anticipated by United States Patent Number 6,621,692 to Johnson et al. (hereinafter "Johnson"). Claims 1-3, 5, 7, and 9-12 also stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Johnson in view of United States Patent Number 6,504,707 to Agata et al. (hereinafter "Agata").

For the Examiner's convenience and reference, Applicants' remarks are presented in substantially the same order in which the corresponding issues were raised in the Office Action. Please note that the following remarks are not intended to be an exhaustive enumeration of the distinctions between any cited references and the claimed invention. Rather, the distinctions identified and discussed below are presented solely by way of example to illustrate some of the differences between the claimed invention and the cited references.

Applicants thank the examiner for the interview of April 27, 2006. As a result of the discussion, claims 1, 10, and 11 are amended to more particularly point out and distinctly claim the subject matter of the claimed invention. Claims 2, 3, 7, 9, and 12 are canceled. New claims 21-23 are added.

The amendments are fully supported by the specification. Specifically, claim 1 is amended with the limitations of claims 2, 3, 9 and 12. Figure 2C illustrates the claimed form of the upper support and the lower support while the specification teaches the rigid material. Fig.

2C, Refs. 202, 204. Page 12, Paragraph 37. The specification further discloses the vertical storage position being outside of the rack mount frame. Page 11, Paragraph 35.

The specification discloses the computer equipment rack mounting equipment with a height that is an integer multiple of 44.45 mm. Page 1, Paragraph 3. In addition, the specification describes the face. Fig. 1, Ref. 106; Page 1, Paragraph 2. Claims 10 and 11 are amended to depend from pending claim 1.

In addition, claim 21 is supported by the specification, which discloses a "...motor, gearing, switch, and power supply may be coupled to the mounting mechanism..." Page 13, Paragraph 42. Figure 2B is replaced with a replacement sheet showing the motor, gearing, switch and power supply. Fig. 2B, Refs. 220, 222, 224, 226. Claim 22 is supported by the specification, which teaches the mounting mechanism mounting to the frame members of a rack mount frame. Page 12, Paragraph 38. Claim 23 is also supported by the specification, which discloses the mounting mechanism mounted to a divider panel. Page 12, Paragraph 38. Figure 1 is replaced with a replacement sheet showing the divider panel. Fig. 1, Ref. 112.

Response to objection to the specification.

The specification is objected to for an incorrect reference in Line 4 of Page 13. Applicants have corrected paragraph 40 of the specification to cure the informality.

Response to rejections of claims under 35 U.S.C. § 112 second paragraph.

Claims 3 and 12 stand rejected under 35 U.S.C. § 112 second paragraph as being

indefinite. The limitations of claims 3 and 12 are amended to claim 1 and claims 3 and 12 are canceled. Applicants submit that claim 1 as amended cures the improper link of functionally recited structures to positive structures.

Response to rejections of claims under 35 U.S.C. § 102(b).

Claims 1-3, 7, and 9-11 stand rejected under 35 U.S.C. § 102(b) as being anticipated by Johnson. Applicants respectfully traverse this rejection.

Claim 1 is amended to include the limitation "...the mounting mechanism mounted to a computer equipment rack such that the vertical storage position is outside of the computer equipment rack and places the upper support and lower support behind a face of the computer equipment rack..." Claim 1 as amended. Johnson teaches a vertical storage position inside of an enclosure, but not teach the vertical storage position outside of the enclosure and/or computer equipment rack. Johnson, Fig. 7. Because Johnson does not teach each element of claim 1, Applicants assert that claim 1 is allowable.

Claims 2, 3, 7, 9 and 12 are canceled. Applicants submit that claims 10 and 11 as amended are allowable as depending from allowable claim 1.

Response to rejections of claims under 35 U.S.C. § 103(a)

Claims 1-3, 5, 7, and 9-12 also stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Johnson in view of Agata. Applicant respectfully traverses these rejections.

As discussed above, claim 1 as amended includes a limitation that a vertical storage

position is outside of the computer equipment rack. Neither Johnson nor Agata teach the vertical storage position outside of the computer equipment rack. Therefore, Applicants submit that claim 1 is allowable.

In addition, Applicants assert that Johnson should not be considered in view of Agata as the computer screen in a non-vertical orientation as disclosed by Agata embodies substantially different functions, structures, and results from the present invention. “It is not enough if both devices perform the same function when it is apparent from the patent drawings that the devices are differently constructed and perform that function in different ways.” *Engel Indus. v. Lockformer Co.*, 96 F.3d 1398, 1406 (Fed. Cir. 1996). Therefore, Applicants submit that claims 1, 10, and 11 cannot be unpatentable over Johnson in view of Agata and are allowable. Claims 2, 3, 7, 9 and 12 are canceled.

As a result of the presented remarks, Applicants assert that claims 1, 10, and 11 are in condition for prompt allowance. Should additional information be required regarding the traversal of the rejections of the dependent claims enumerated above, Examiner is respectfully asked to notify Applicants of such need. If any impediments to the prompt allowance of the claims can be resolved by a telephone conversation, the Examiner is respectfully requested to contact the undersigned.

Respectfully submitted,

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